

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF PENNSYLVANIA

IN RE: BANKRUPTCY NO: 11-22840-JAD  
GARY REINERT, SR., CHAPTER 7  
DEBTOR.

GARY REINERT, SR.,

Related to Doc. No. 1791

MOVANT,

v.

OFFICE OF THE U.S. TRUSTEE,

RESPONDENT.

**FILED**

**JAN 23 2020**

CLERK, U.S. BANKRUPTCY COURT  
WEST DIST. OF PENNSYLVANIA

REPORT AND RECOMMENDATION

COMES NOW the United States Trustee, Andrew R. Vara, through his undersigned counsel, and respectfully submits this Report and Recommendation as ordered by the Court:

1. Gary Reinert, Sr. ("Debtor") filed for bankruptcy relief under chapter 11 of the Bankruptcy Code on May 2, 2011.
2. The Debtor represented on his schedules that he owned Metal Foundations LLC.
3. The Court converted the Debtor's case to chapter 7 by Order filed March 2, 2012. After much litigation, the case was closed April 5, 2017.
4. Prior to the Debtor's most recent filings in this Honorable Court, which commenced in November 2019, the United States Trustee, as well as other Federal law enforcement agencies, met with the Debtor to review his current allegations. Specifically, the Debtor met with representatives from the United States Attorney, the Federal Bureau of Investigation, and the

United States Trustee on August 29, 2019. In addition to meeting with the Debtor, the United States Trustee reviewed numerous documents submitted by the Debtor at the referenced meeting.

5. The United States Trustee has experienced difficulty following the Debtor's allegations at times. However, the allegations advanced at that meeting appear to be similar to the allegations that he transmitted to the Court via his Petition for Ex Parte Conference with the Court.

6. The essence of the Debtor's complaint appears to be that he did not actually own Metal Foundations LLC when he filed bankruptcy because Fred McMillen, Gary Reinert, Jr., Don Williams and Michael Shuler fraudulently removed him from ownership of the company without his knowledge, which he did not discover until recently. The Debtor contends that had he known of this alleged fraud, he could have filed adversary proceedings against these individuals during his bankruptcy case.

7. The Debtor's complaint appears to rest upon the assertion that the State of Delaware does not possess records containing the Debtor's name or address associated with Metal Foundations LLC and, therefore, the above-named individuals must have stolen the business from him.

8. United States Trustee staff met with the Debtor again on December 12, 2019; the Debtor largely reiterated the complaints he made to the Court, although the United States Trustee notes that the Debtor has not presented his allegations in a manner that is fully understandable.

9. At the December 12, 2019 meeting, the United States Trustee specifically requested that the Debtor detail facts that would warrant reopening this case. The United States Trustee was unable to determine a basis to reopen through either discussions with the Debtor or review of documentation that he provided. However, the United States Trustee notes that if the Debtor's allegations are meritorious, the Debtor should have recourse in state court to obtain relief from the above-named individuals for their alleged theft of his business.

10. The United States Trustee asked the Debtor why he did not pursue litigation against the above-named individuals in state court and the Debtor responded that he did not have the funds to pay an attorney. Of course, inability to pay attorney's fees in state court is not a basis to reopen a bankruptcy case, particularly since the Debtor would presumably require legal representation in bankruptcy court as well.

11. Additionally, the United States Trustee notes that Metal Foundations LLC was placed in receivership before its bankruptcy petition was filed on May 2, 2011 by Mr. Reinert. The receiver, Robert Noel, was appointed on March 16, 2011 by the United States District Court for the Western District of Pennsylvania. Although Mr. Noel initially opposed the bankruptcy filing for Metal Foundations LLC, he later ratified the bankruptcy filing, which ratification was noted by this Court by Order dated May 11, 2011. **Exhibit A.** Thus, any argument by Mr. Reinert that Metal Foundations LLC was improperly placed in bankruptcy because the above-named individuals stole the business from him before he filed the petition appears to be without merit since the receiver for Metal Foundations LLC ratified the bankruptcy filing – making Mr. Reinert's theft allegation irrelevant to the issue of whether Metal Foundations LLC was properly placed in bankruptcy.

12. The United States Trustee requested Mr. Reinert to explain why the Court's May 11, 2011 Order, which noted the receiver's ratification of the bankruptcy filing for Metal Foundations LLC, did not preclude his request to reopen his bankruptcy case, which appears to be based on a faulty assumption that Metal Foundations LLC was improperly placed in bankruptcy. Mr. Reinert did not provide an explanation.

13. The United States Trustee cannot identify a meritorious basis to reopen this case. In the event that the Court is considering doing so, the Court may wish to afford parties in interest,

particularly the above-named individuals accused by the Debtor of committing fraud, an opportunity to be heard on this matter.

14. Additionally, the United States Trustee recommends that the Debtor be required to explain to the Court the relief he seeks with greater specificity and to address whether the Court possesses the requisite jurisdiction to grant that relief.

15. Finally, the United States Trustee is aware of no basis for keeping any document submitted by the debtor under seal and recommends that these proceedings be unsealed.

WHEREFORE, the United States Trustee respectfully submits this Report and Recommendation.

Respectfully submitted,

ANDREW R. VARA  
UNITED STATES TRUSTEE  
Region 3

Dated: January 23, 2020

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**EXHIBIT A**

5/11/2011

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UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GARY L. REINERT, SR.,

Debtor.

Bankruptcy No. 11-22840-JAD

Chapter 11

Document No. \_\_\_\_\_

Related to Document No. 12

POWER CONTRACTING, INC.,

Debtor.

Bankruptcy No. 11-22841-JAD

Chapter 11

Document No. \_\_\_\_\_

Related to Document Nos. 10 and 14

MFPF, INC.,

Debtor.

Bankruptcy No. 11-22842-JAD

Chapter 11

Document No. \_\_\_\_\_

Related to Document Nos. 9 and 13

METAL FOUNDATIONS, LLC

Debtor.

Bankruptcy No. 11-22843-JAD -- **FILED AT**

Chapter 11

Document No. 42Related to Document Nos. ~~10 and~~ 15 AND 11

DRESSEL ASSOCIATES, INC.,

Debtor.

Bankruptcy No. 11-22844-JAD

Chapter 11

Document No. \_\_\_\_\_

Related to Document Nos. 9 and 15

FLYING ROADRUNNER, INC.,

Debtor.

Bankruptcy No. 11-22845-JAD

Chapter 11

Document No. \_\_\_\_\_

Related to Document Nos. 9 and 14

GRILLE ON 7<sup>th</sup>, INC.,

Debtor.

Bankruptcy No. 11-228476-JAD

Chapter 11

Document No. \_\_\_\_\_

Related to Document Nos. 8 and 13

CONSENT ORDER OF COURT

AND NOW, this 11<sup>th</sup> day of May, 2011, after notice and hearing on (i) Fifth Third

Bank's Emergency Motion to: (I) Dismiss Bankruptcy Petition Pursuant to 11 USC §§ 305 and 1112; or (II) Alternatively, to Modify the Abstention Provision and Appoint Receiver Pursuant to 11 USC § 543; or (III) to Appoint a Chapter 11 Trustee Pursuant to 11 USC § 1104, as filed in

each of the above captioned cases (the "Fifth Third Bank Emergency Motion For Relief") and (ii) the Expedited Motion For Dismissal Of Chapter 11 Case by Robert Noel, Receiver, as filed in each of the above captioned cases, except that of Gary L. Reinert, Sr. (the "Receiver Motion to Dismiss"), responses to the Fifth Third Bank Emergency Motion For Relief filed by Gary L. Reinert, Sr. ("Mr. Reinert"); Power Contracting, Inc.; MFPF, Inc.; Metal Foundations, LLC; Dressel Associates, Inc.; Flying Roadrunner, Inc. and Grille on 7<sup>th</sup>, Inc. (collectively, the "Debtors"); PNC Bank, National Association and the M&E Trust, and the Debtors' responses to the Receiver Motion to Dismiss, it is hereby Ordered, Adjudicated and Decreed as follows:

1. Robert Noel, Receiver (the "Receiver") appointed by the United States District Court for the Western District of Pennsylvania at Case Nos. 10-mc-353, 10-mc-354 and 10-mc-355, by Orders dated March 16, 2011, has ratified of record before this Court the bankruptcy filings by each of the Debtors herein, other than by Mr. Reinert, whose right to file a voluntary petition for relief under the Bankruptcy Code, was not contested by the Receiver. This Court will retain jurisdiction over each of the Debtors' cases (together the "Cases"), which Cases were filed on May 2, 2011 (the "Petition Date"). That portion of the Fifth Third Bank Emergency Motion for Relief requesting dismissal of the Cases premised on alleged *ultra vires* acts of the Debtors is denied.

2. The Receiver Motion to Dismiss is withdrawn.

3. That portion of the Fifth Third Bank Emergency Motion for Relief which requests Dismissal of the Cases based upon other allegations contained therein, is stayed pending further Order of this Court. Fifth Third Bank may at any time in these proceedings file a Motion requesting that the Court dismiss one or more of the Cases for any and all reasons, other than the alleged *ultra vires* acts.

4. Pursuant to Bankruptcy Code Section 1104(a), upon the requests and consents in Court of the Debtor and other parties-in-interest, this Court Orders the appointment, of a

Chapter 11 Trustee (the "Trustee") by the United States Trustee, in accordance with Bankruptcy Code Section 1104(d) and Federal Bankruptcy Rule 2007(C).

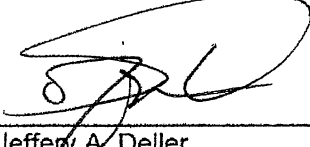
5. Pursuant to Bankruptcy Code Section 543(d), the Receiver shall exclusively continue in possession, custody and control of each bankruptcy estate's property, without limitation (the "Assets"), until the Order approving the Trustee is entered on the Dockets of the Cases. Thereafter, the Receiver shall promptly comply with Section 543(b)(1). Within thirty (30) days thereafter, the Receiver shall file the accounting required by Section 543 (b)(2) (the "Accounting").

6. For purposes of this Order, Assets shall include, but are not limited to, each Debtor's business books and records and similar data (the "Data"), regardless of the form of such Data. Any person or entity in possession of Data, other than the Receiver or his professionals or agents, shall promptly turn over such Data to the Receiver.

7. The Debtors and each of their employees, agents, officers, members, directors, servants or others are, without approval of this Court and the written consent of the Receiver, enjoined and precluded from dissipating, destroying, removing, or otherwise interfering with the Assets or the Data.

8. Within sixty (60) days after the Receiver files his Accounting, the Receiver and any professionals who were initially engaged by him prior to the Petition Date may file applications for compensation and reimbursements of costs, pursuant to Bankruptcy Code Section 503(b) incident to pre-Petition Date activities and Section 543(c) for post-Petition Date activities, including for the transition period, during which the Receiver is complying with Section 543(b).

BY THE COURT:

  
\_\_\_\_\_  
Jeffrey A. Deller  
United States Bankruptcy Judge

5-11-2011

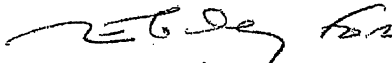
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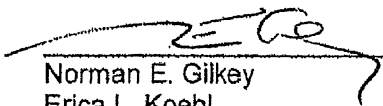
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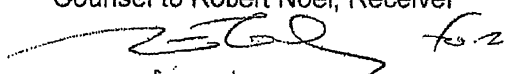
**CLERK, U.S. BANKRUPTCY COURT  
WEST. DIST. OF PENNSYLVANIA**

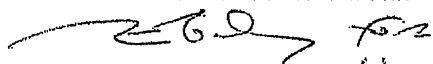


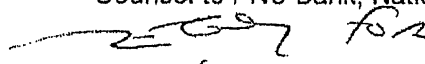
CONSENTED AND AGREED:

  
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**Notice Recipients**

District/Off: 0315-2

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Case: 11-22843-JAD

Form ID: pdf900

Total: 49

**Recipients submitted to the BNC (Bankruptcy Noticing Center) without an address:**

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TOTAL: 1

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